

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN GIMBEL,

Plaintiff,

vs.

No. C 07-0113 SBA

ORDER
[Docket No. 74]

STATE OF CALIFORNIA, DEL NORTE
COUNTY SHERIFF'S DEPARTMENT,
JERRY HARWOOD, BILL STEVEN,
GENE McMANUS, MELANIE BARRY,
DANA RENO, ROBERT BARBER, ED
FLESHMAN, CRESCENT CITY POLICE
DEPARTMENT, DOUGLASS PLACK,
GREG JOHNSON, JAMES HOLT,
CALEB CHADWICK, THOMAS BURKE,
DEL NORTE DISTRICT ATTORNEY,
KEITH MORRIS, AC FIELD, MICHAEL
RIESE, DARREN McELFRESH, and
FRITZ LUDERMAN,

Defendants.

Currently before the Court in this closed case is *pro se* plaintiff John Gimbel's "Motion to Disqualify Judge." Docket No. 74. The gravamen of this motion appears to be that, since Gimbel made overtly racist statements in his pleadings, this Court should have recused itself from this case rather than dismiss it, as the Court ordered on September 19, 2007 [Docket No. 68].

However, Gimbel has filed a notice of appeal of the dismissal [Docket No. 70], and therefore this Court no longer has jurisdiction over this matter. *Natural Res. Def. Council, Inc. v. Southwest Marine Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001). Moreover, the case is closed, and there no matters currently pending before the Court. Any motion for disqualification or recusal is therefore moot. *Dixon*

1 v. *Clem*, 492 F.3d 665, 680 (6th Cir. 2007) (affirming district court's denial as moot of motion to recuse
2 after notice of appeal had been filed). Accordingly, Gimbel's "Motion to Disqualify Judge" [Docket
3 No. 74] is DENIED AS MOOT.

4 IT IS SO ORDERED.

5 Dated: 1/28/08


6 SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GIMBEL et al,

Plaintiff,

v.

STATE OF CALIFORNIA et al,

Defendant.

Case Number: CV07-00113 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 28, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John Gimbel
225 Brevus Street
Crescent City, CA 95531

Dated: January 28, 2008

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk